

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-03 /032 R

DRAFTED BY EB/AN:JCOOK:DAP

APPROVED BY EB/AN:RABROWN

EUR/WE - E. BEIGEL

CAB - F. MURPHY

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R 020049Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY ROME

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E.O. 11652:N/A

TAGS: EAIR, IT

SUBJECT: CIVAIR: US-ITALIAN CONSULTATIONS FEBRUARY 17-24
(CHARTERS)

REF: STATE 45323

1. BELOW IS TEXT OF MEMORANDUM OF CONSULTATIONS ON CHARTER
SERVICES WHICH WAS SIGNED FEBRUARY 24, 1976:

BEGIN TEXT:

"REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF
AMERICA AND THE MINISTRY OF TRANSPORT--CENTRAL DIRECTORATE
OF CIVIL AVIATION OF THE ITALIAN REPUBLIC MET IN WASHINGTON
FROM FEBRUARY 17-24, 1976, TO DISCUSS PROBLEMS OF HARMONIZA-
TION OF RULES GOVERNING PASSENGER CHARTER FLIGHTS BETWEEN
THE TWO COUNTRIES. DRAFT UNDERSTANDINGS TO GOVERN CHARTER-
WORTHINESS CONDITIONS WERE PROPOSED BY EACH DELEGATION.
ALTHOUGH THE COMPLEXITY OF THE MATTERS DISCUSSED MADE IT
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IMPOSSIBLE TO REACH AGREEMENT DURING THE LIMITED TIME
AVAILABLE, THE DELEGATIONS DECIDED TO RECORD THE PRO-
GRESS ACHIEVED, AND EXPRESSED THEIR MUTUAL DESIRE TO MEET
AGAIN TO CONTINUE SEEKING AN ACCORD ON CHARTER ISSUES.

"1. THE DELEGATIONS REVIEWED THEIR RESPECTIVE CATEGORIES OF CHARTER FLIGHTS AND NOTED THAT EACH COUNTRY HAD ESTABLISHED OR CONTEMPLATED ESTABLISHING COMPARABLE CATEGORIES.

"2. THE DELEGATIONS EXAMINED EACH CHARTER TYPE AND NOTED COMMONALITY OR EXPRESSED DIFFERENCES AS FOLLOWS:

"A. OWN-USE OR SINGLE-ENTITY CHARTERS, I.E., THOSE IN WHICH THE ENTIRE CHARTER COST IS BORNE BY A SINGLE PERSON (INDIVIDUAL, FIRM, ASSOCIATION, PARTNERSHIP OR CORPORATION). THE RULES OF BOTH COUNTRIES ON THIS TYPE OF CHARTER ARE SIMILAR IN ALL SIGNIFICANT RESPECTS. THE UNITED STATES DELEGATION REQUESTED THAT THE ITALIAN REGULATIONS PERMIT VOLUNTARY CONTRIBUTIONS BY PASSENGERS.

"B. STUDENT FLIGHTS, I.E., THOSE OPEN TO FULL-TIME STUDENTS OF ANY SCHOOLS OR UNIVERSITIES OR OTHER ESTABLISHMENTS OF HIGHER EDUCATION AND TO A REASONABLE NUMBER OF MEMBERS OF THE TEACHING STAFF OR OTHER AUTHORIZED PERSONS. THE UNITED STATES DELEGATION INDICATED THAT THERE SHOULD BE NO PROBLEM ACCEPTING THIS ITALIAN CATEGORY WHEN ORIGINATED IN ITALY, PROVIDED THE CHARTER GROUP MEETS THE US AFFINITY RULE.

"C. STUDY GROUP. THE ITALIAN DELEGATION INDICATED THAT ITS GOVERNMENT COULD ACCEPT CHARTERS UNDER THIS US CATEGORY AS EXCEPTIONS TO ITS STUDENT FLIGHT RULES WHERE THE PURPOSE IS ATTENDANCE AT COURSES ABROAD LASTING AT LEAST FOUR WEEKS WHOSE PROGRAMS ARE FORESEEN TO LAST AT LEAST 15 HOURS WEEKLY.

"D. AFFINITY. THE ITALIAN DELEGATION WOULD ACCEPT AFFINITY CHARTERS WHICH ARE VALID UNDER US RULES WITH THE FOLLOWING EXCEPTIONS:

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"(1) A PASSENGER LIST IS SUBMITTED TO THEM THIRTY DAYS BEFORE THE DEPARTURE FLIGHT. HOWEVER, PASSENGER LISTS MAY BE PROVIDED UP TO THREE DAYS BEFORE THE DEPARTURE DATE FOR URGENT, SINGLE AND PROVEN CASES;

"(2) SPLIT AFFINITY CHARTERS WOULD NOT BE PERMITTED. THE UNITED STATES DELEGATION REQUESTED THAT AN UNLIMITED NUMBER OF GROUPS OF FORTY SEATS BE PERMITTED ON SPLIT CHARTERS, BUT THAT NO PRELISTING REQUIREMENT BE IMPOSED. THE UNITED STATES DELEGATION FURTHER REQUESTED THAT, IF THE ITALIAN AUTHORITIES COULD NOT MEET THE FOREGOING US REQUESTS, THEY CONSIDER ADOPTING THE LESS LIMITING

SUBSTITUTION AND ADDITION CONDITIONS APPLIED BY MOST EUROPEAN GOVERNMENTS WHICH REQUIRE AFFINITY PRELISTING, I.E., ALLOWANCES FOR REASONABLE ADDITIONS AND SUBSTITUTIONS OF OTHER MEMBERS OF THE AFFINITY ORGANIZATION UNTIL DEPARTURE, E.G., OF UP TO 15 PERCENT OF THE PASSENGERS NOT PREVIOUSLY LISTED. THE ITALIAN DELEGATION STRESSED THAT THIS TYPE OF CHARTER, AS GENERALLY ACCEPTED, IS DESTINED TO BE CANCELLED DUE TO THE INTRODUCTION OF OTHER TYPES OF CHARTER FLIGHTS.

"E. INCLUSIVE TOUR. THE ITALIAN DELEGATION NOTED THE PRINCIPAL REQUIREMENTS OF THE US RULES REGARDING THIS CATEGORY AND INDICATED ITC'S WOULD BE ACCEPTABLE UNDER ITALIAN ITC RULES. THE UNITED STATES DELEGATION NOTED THE TWENTY-DAY PASSENGER LIST REQUIREMENT OF THE ITALIAN RULES AND REQUESTED THAT THIS NOT BE APPLIED IN VIEW OF THE EXTENSIVE MARKETING CONTROLS OF THE US RULE.

"F. ONE-STOP-INCLUSIVE TOURS. THE ITALIAN DELEGATION WOULD ACCEPT OTC'S, AS A SUB-CATEGORY OF ITC, OPERATED PURSUANT TO US REGULATIONS, PROVIDED THEY MEET BOTH THE CHARTER RATE (WHOLESALE) MINIMUM PRICE BELOW AND THE RETAIL PRICE BELOW PLUS 15 DOLLARS PER NIGHT:

PERIOD	WHOLESALE MINIMUM (CENTS PER SEAT MILE)	RETAIL MINIMUM (CENTS PER SEAT MILE)
APRIL 1-MAY 30		
SEPT. 16-OCT. 31	3.29	3.86
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DEC. 11-DEC. 31

JUNE 1-SEPT. 15	3.94	4.61
NOV. 1-DEC. 10		
JAN 1-MARCH 31	3.08	3.61

"THE ITALIAN DELEGATION ALSO WOULD ALLOW UP TO THREE GROUPS PER AIRCRAFT CHARTERED BY THE SAME CHARTERER, LIMITED TO OTC, ITC, AND SEC TYPES. THE UNITED STATES DELEGATION NOTED THE ITALIAN WILLINGNESS TO ACCEPT US OTC CONDITIONS OTHER THAN THOSE RELATING TO PRICE, SPLIT CHARTERING, AND COMMINGLING OF CHARTER TYPES, BUT INDICATED THAT IT COULD NOT ACCEPT ANY A PRIORI MINIMUM PRICES. THE UNITED STATES DELEGATION ALSO REQUESTED THAT THE SPLIT AND COMMINGLING REQUIREMENTS OF ITALY NOT BE MORE RESTRICTIVE THAN THOSE OF THE UNITED STATES. THE ITALIAN DELEGATION NOTED THAT, IN THE INTEREST OF THE AIRLINES AND PASSENGERS, IT IS NECESSARY TO HAVE A PRECISE INDEX OF REFERENCE THAT IS NOT DEPENDENT ONLY ON DISCRE-

TIONARY JUDGEMENTS TAKEN CASE BY CASE. THE ITALIAN DELEGATION FINALLY NOTED THAT THE ABOVE PRICE MINIMUMS ARE CONSIDERED WITHIN EUROPE AS "MINIMA MINIMORUM" AND THAT IT IS NEVERTHELESS READY TO RE-EXAMINE THE LEVEL OF SUCH MINIMUMS (ESTABLISHED LAST YEAR AND THEREFORE NOT CHANGED, NOTWITHSTANDING THE INCREASES IN COSTS) IN THE LIGHT OF EXPERIENCE AND EVERY OTHER FACTOR (FOR EXAMPLE, INTER AIRLINE AGREEMENT).

"G. SPECIAL EVENT. THE ITALIAN DELEGATION INDICATED THAT THE SAME CONDITIONS WOULD BE APPLIED AS DESCRIBED ABOVE FOR OTC'S WHEN SUCH FLIGHTS INCLUDE TOUR PACKAGE REQUIREMENTS. THE UNITED STATES DELEGATION STATED THAT ITS VIEWS REGARDING OTC ACCEPTANCE CONDITIONS APPLIED TO SEC ACCEPTANCE CONDITIONS AS WELL.

"H. TRAVEL GROUP. THE ITALIAN DELEGATION WOULD ACCEPT THIS US CATEGORY PURSUANT TO US REGULATIONS WITH THE EXCEPTIONS THAT SUBSTITUTION WOULD BE LIMITED TO 10 PERCENT OF THE PASSENGERS AND THAT THE WHOLESALE MINIMUM LIMITED OFFICIAL USE
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PRICE IN CENTS PER SEAT MILE MUST BE NO LESS THAN THAT SHOWN FOR OTC'S ABOVE. THE UNITED STATES DELEGATION INDICATED THAT IT COULD NOT ACCEPT ANY A PRIORI MINIMUM PRICES FOR THE REASONS CITED ABOVE FOR OTC'S AND SAID IT ALSO COULD NOT ACCEPT A REDUCTION FROM THE 15 PERCENT SUBSTITUTION AUTHORIZED IN THE US REGULATIONS. THE ITALIAN DELEGATION REPLIED IN THE TERMS OF THE PRECEDING PARAGRAPH REGARDING MINIMUM PRICE. REGARDING SUBSTITUTION OF PASSENGERS ON TGC'S, THE ITALIAN DELEGATION STATED THAT THE SUBSTITUTION UP TO 10 PERCENT IS PRESENTLY ADOPTED BY ECAC.

"I. ADVANCE BOOKING. THE ITALIAN DELEGATION INDICATED THAT IT WOULD SOON BE PUBLISHING ABC RULES ALONG ECAC LINES. THE UNITED STATES DELEGATION GAVE THE ITALIAN DELEGATION THE CAB PROPOSED ABC RULE WHICH EXPRESSES THE EXPECTATION THAT EUROPEAN AUTHORITIES WILL ALSO MOVE TOWARD HARMONIZATION OF ABC RULES.

"3. THE ITALIAN DELEGATION INDICATED THAT IT WOULD NOT APPLY THE ABOVE MINIMUM PRICES FOR ABC, TGC, OTC, AND SEC FLIGHTS FILED WITH THE ITALIAN AUTHORITIES WITHIN 20 DAYS AFTER TODAY'S DATE, WHETHER OR NOT ITALIAN REGULATIONS FOR THESE TYPES OF CHARTERS HAVE BEEN PROMULGATED. CHARTER CONTRACT PRICE SURVEILLANCE WILL BE EXERCISED DURING THIS PERIOD.

"4. THE ITALIAN DELEGATION, IN CONSIDERATION OF THE FACT

THAT IT HAS NOT BEEN POSSIBLE TO REACH AN UNDERSTANDING
ON THE HARMONIZATION OF THE RESPECTIVE REGULATIONS,
STATED THAT NO COMMITMENT DERIVES FROM THE PRESENT
MEMORANDUM OF CONSULTATION FOR ITS AUTHORITIES, WHICH
REMAIN FREE TO ISSUE NEW REGULATIONS ON CHARTER FLIGHTS
ACCORDING TO ITS OWN AUTONOMOUS JUDGEMENTS.

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"WASHINGTON, D. C.
"FEBRUARY 24, 1976." END TEXT.

2. THE POSITIONS TAKEN BY BOTH SIDES ON SCHEDULED
SERVICES ARE CONTAINED IN THE SELF EXPLANATORY MEMORANDUM
IN REFTEL. IT WAS AGREED TO LEAVE THE RATE ARTICLE OF
THE AGREEMENT IN ITS PRESENT FORM BUT THE ITALIAN DELEGA-
TION EXPRESSED STRONG DISSATISFACTION WITH THE
CAPACITY PROVISIONS AND PRE-SCREENING PROCEDURES
WHICH THEY TERMED AS INEFFECTIVE IN CONTROLLING CAPACITY.
ITALIANS CONTINUED TO EXPRESS OPPOSITION TO B-747F
ALL-CARGO SERVICE BY SEABOARD AND ITS CHANGE OF GAUGE
OPERATION VIA FRANKFURT.

3. ON CHARTER SERVICES, THE ITALIANS WERE VERY ANXIOUS
TO ENTER AN AGREEMENT ON CHARTERWORTHINESS BUT THE
US COULD NOT ACCEPT INTER ALIA ITALIAN MINIMUM PRICE
REQUIREMENTS. IT WAS FELT THAT BY SIGNING THE MEMORANDUM
ESTABLISHING AN AGREED RECORD OF THE POSITIONS OF THE TWO
SIDES, THE US VIEWS MIGHT HAVE A POSITIVE IMPACT ON THE
ITALIAN REGULATIONS WHICH WILL BE PROMULGATED SHORTLY.
MEMO OF CONSULTATIONS IS SEEN AS FIRST STEP TOWARDS
CHARTERWORTHINESS AGREEMENT AND FURTHER TALKS WILL
PROBABLY BE HELD TO COVER THESE AND OTHER TOPICS. INGERSOLL

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Message Attributes

Automatic Decaptioning: X
Capture Date: 15 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR TRANSPORTATION, AVIATION AGREEMENTS, NEGOTIATIONS, TEXT
Control Number: n/a
Copy: SINGLE
Draft Date: 02 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE050021
Document Source: ADS
Document Unique ID: 00
Drafter: EB/AN:JCOOK:DAP
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D760078-0743
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197603116/baaaeogs.tel
Line Count: 261
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 26 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 APR 2004 by BoyleJA>; APPROVED <07 JUL 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> mcm 970924
Subject: CIVAIR: US-ITALIAN CONSULTATIONS FEBRUARY 17-24
TAGS: EAIR, IT, US
To: ROME
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006